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5 UNITED STATES DISTRICT COURT

6 DISTRICT OF NEVADA

7
8 SANFORD TUCKER, individually, and as
9 Special Administrator of the Estate of KEITH
10 TUCKER; SANFORD TUCKER, as Guardian
ad Litem of FRANS KAI MAAN TUCKER, a
minor,

11 Plaintiffs,

12 v.

13 LAS VEGAS METROPOLITAN POLICE
14 DEPARTMENT; OFFICER PATRICK
15 DENNY, in his individual and official capacity;
16 OFFICER MARK HUTCHINSON, in his
17 individual and official capacity; SHERIFF
BILL YOUNG, individually and in his official
capacity; DOES I through X, DOES XI through
XX; and ROE CORPORATIONS XXI through
XXX, inclusive,

18 Defendants.

2:05-cv-01216-LDG-RJJ

ORDER

19
20 Defendants have filed a motion in limine re: irrelevant police tactics, use of force, and taser
21 training (#154, opposition #174) Judges have broad discretion when ruling on motions in limine,
22 see, e.g., Jenkins v. Chrysler Motors Corp., 316 F.3d 663, 664 (7th Cir. 2002), and a district
23 court's ruling on a motion in limine is subject to change, particularly in light of developing trial
24 considerations. See Luce v United States, 469 U.S. 38, 41-42 (1984).

25 Defendants argue that pursuant to the Ninth Circuit's March 2, 2012, opinion, plaintiff
26 should be precluded from making any argument or offering specific evidence suggesting that

1 Officers Denny and Hutchinson engaged in any misconduct prior to handcuffing Keith Tucker.
2 The Ninth Circuit ruled that “[t]he force used by the officers before Keith’s handcuffing was
3 reasonable under the circumstances of Keith’s violent resistance,” and then went on to explain that
4 Officer Denny’s decision to grab Tucker, which may have provoked the altercation, was not an
5 intentional or reckless provocation, “and therefore cannot render the officer[s’] otherwise
6 reasonable defensive use of force unreasonable as a matter of law.”

7 This court does not read the Ninth Circuit’s opinion to limit the presentation of evidence
8 dealing with the facts of the encounter, including the actions of the officers, leading up to Tucker’s
9 handcuffing and the conduct of the officers thereafter. While plaintiff should not be permitted to
10 argue that the officers used unreasonable force prior to restraining Tucker, the pre-restraint facts
11 would be relevant to the officers’ state of mind after restraining Tucker (including their
12 expectations of Tucker’s further resistance), the officers’ credibility regarding the unfolding of the
13 incident, and their supervision and training to the extent that it relates to their actions after
14 restraining Tucker (including the post-restraint tasing of Tucker), for purposes of their own
15 liability and other defendants’ liability. Furthermore, the court would be amenable to offering a
16 limiting instruction regarding the officers’ liability for pre-handcuffing conduct.

17 Finally, defendants also argue that the officers are entitled to qualified immunity for the use
18 of the taser after Tucker’s handcuffing. The court rejected this argument in its previous order
19 denying defendants’ motion for partial judgment on the pleadings to dismiss the section 1983
20 claim against [Sheriff] Young (#179). Accordingly,

21 THE COURT HEREBY ORDERS that defendants’ motion in limine re: irrelevant police
22 tactics, use of force, and taser training (#154) is DENIED.

23 DATED this 1 day of November, 2012.

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25 _____
26 Lloyd D. George
United States District Judge